



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

NCR Docket No. 8657

MMB Docket No. 1001-0662

Confirmation No.: 4128

Application of: Joanne S. Walter

Group Art Unit: 3624

Serial No. 09/629,735

Examiner: Ella Colbert

Filed: July 31, 2000

For: **Apparatus and Method for Maintaining a Children's Automated
Bank Account**

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AMENDED APPEAL BRIEF

Sir:

This is an appeal under 37 CFR § 41.31 to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office from the rejection of the claims 19-37 and the withdrawal of claim 38 of the above-identified patent application. These claims were indicated as rejected or withdrawn in an Office Action dated June 1, 2006. The \$500.00 fee required under 37 CFR § 41.20(b) (2) is submitted herewith.

Also, please provide any extensions of time that may be necessary and charge any fees that may be due to Account No. 13-0014, but not to include any payment of issue fees.

(1) REAL PARTY IN INTEREST

NCR Corporation of Dayton, Ohio is the assignee of this patent application, and the real party in interest.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to this patent application (serial no. 09/629,735).

(3) STATUS OF CLAIMS

Claims 1-18 are canceled.

Claims 19-38 are pending in the application.

Claims 19-37 are rejected.

Claim 38 was withdrawn from consideration by the Examiner.

Claims 19-38 are being appealed, and are shown in the Appendix attached to this Appeal Brief.

(4) STATUS OF AMENDMENTS

Appellants have filed no amendments after receipt of the June 1, 2006, Office Action (the "Office Action").

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to an apparatus and system for maintaining a child's automated bank account. (See, e.g. Appellant's specification at Abstract). In accordance with one non-limiting embodiment, an electronic banking terminal 10 includes a processing unit 12. (See, e.g. Appellant's specification at page 5, lines 20-21 and FIG. 1). The processing unit 12 includes network interface circuitry which provides for communications between the terminal 10 and a banking network. (See, e.g. Appellant's specification at page 11, lines 13-15).

In operation, the terminal 10 is used to maintain a bank account using a multi-tiered personal identification number (PIN number) approach. (See, e.g. Appellant's specification at page 12, lines 3-8). Thus, a plurality of PIN numbers are associated with a single bank account. (See, e.g. Appellant's specification at page 12, lines 9-12). A first PIN number allows access to the account for withdrawal of an amount of money that is greater than the amount of money that can be accessed when a second PIN number is used to access the account. (See, e.g. Appellant's specification at page 12, lines 12-15).

Thus, the present invention relates to the access of a single account by a plurality of PIN numbers wherein the privileges associated with the use of the account varies in accordance with the PIN number used.

The additional information required by the United States Patent Office is as follows.

Claims 19, 22-29 and 32-37

Claims 19, 22-29 and 32-37 are argued together. Claim 19 is an independent claim. Claim 19 recites:

A method of operating an electronic banking terminal, comprising the steps of:

(See, e.g. Appellant's specification at page 12, lines 1-5 and bank terminal 10 of FIG. 1)

(a) operating said terminal to permit deposit of funds into a banking account in response to entry of a first personal identification number (PIN number) into said terminal; (See, e.g. Appellant's specification at page 13, lines 3-12)

(b) operating said terminal to permit deposit of funds into said banking account in response to entry of a second PIN number into said terminal, said first PIN number being different than said second PIN number; (See, e.g. Appellant's specification at page 13, lines 3-12)

(c) operating said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal; and (See, e.g. Appellant's specification at page 12, lines 12-15)

(d) operating said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit. (See, e.g. Appellant's specification at page 12, lines 18-21)

Claims 20 and 30

Claims 20 and 30 are argued together. Claim 20 depends from claim 19 and recites:

The method of claim 19, wherein said step (a) includes the steps of:

(e) reading a code stored on a gift card to determine a gift dollar amount associated with said gift card, and (See, e.g. Appellant's specification at page 7 line 20 through page 8, line 3,, page 15, lines 1-3 and card reader 18 of FIG. 1)

(f) depositing said gift dollar amount into said banking account in response to said reading step. (See, e.g. Appellant's specification at page 15, lines 1-3)

Claims 21 and 31

Claims 21 and 31 are argued together. Claim 21 depends from claim 19 and recites:

The method of claim 19, further comprising the steps of:

(e) operating said terminal to permit deposit of funds into said banking account in response to entry of a third PIN number into said terminal, said third PIN number being different than both said first PIN number and said second PIN number; and (See, e.g. Appellant's specification at page 13, lines 13-18 and page 14, lines 12-19)

(f) operating said terminal to prohibit withdrawal of funds from said banking account in response to entry of said third PIN number into said terminal. (See, e.g. Appellant's specification at page 13, lines 13-18 and page 14, lines 12-15)

Claim 29

Claim 29, which is argued with claim 19 as set forth above, is an independent claim which recites:

An electronic terminal, comprising (See, e.g. Appellant's specification at page 5, lines 20-23 and FIG. 1):

an input device for receiving input from a user (See, e.g. Appellant's specification at page 5, lines 20-23 and FIG. 1);

a processing unit electrically coupled to said input device (See, e.g. Appellant's specification at page 6, lines 3-10, page 8, lines 4-13 and FIG. 1); and

a memory device electrically coupled to said processing unit (See, e.g. Appellant's specification at page 6, lines 3-10), wherein said memory device has stored therein a plurality of instructions which, when executed by said processing unit, causes said processing unit to:

(a) operate said terminal to permit deposit of funds into a banking account in response to entry of a first personal identification number (PIN number) into said terminal (See, e.g. Appellant's specification at page 13, lines 6-9);

(b) operate said terminal to permit deposit of funds into said banking account in response to entry of a second PIN number into said terminal, said first PIN number being different than said second PIN number (See, e.g. Appellant's specification at page 13, lines 9-13);

(c) operate said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal (See, e.g. Appellant's specification at page 12, lines 12-15); and

(d) operate said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit (See, e.g. Appellant's specification at page 12, lines 12-15).

Claim 30

Claim 30, which is argued with claim 20 as set forth above, is a dependent claim which recites:

The electronic terminal of claim 29 (See, e.g. Amended Appeal Brief at pages 5-6), further comprising a code reader (See, e.g. Appellant's specification at page 7 line 20 through page 8, line 3, page 14, line 20 through page 15, line 4 and card reader 18 of FIG. 1) configured to read a code stored on a gift card (See, e.g. Appellant's specification at page 7 line 20 through page 8, line 3, page 14, line 20 through page 15, line 4), wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

(e) read said code stored on said gift card to determine a gift dollar amount associated with said gift card (See, e.g. Appellant's specification at page 14, line 20 through page 15, line 4), and

(f) deposit said gift dollar amount into said banking account in response to said reading step (See, e.g. Appellant's specification at page 14, line 20 through page 15, line 4).

Claim 38

Claim 38, which is argued separately, is an independent claim which recites:

An automated teller machine system comprising (See, e.g. Appellant's specification at page 2, lines 9-12, page 5, lines 20-23 and FIG. 1):

a processing unit operatively coupled to said input device (See, e.g. Appellant's specification at page 6, lines 3-10, page 8, lines 4-13 and FIG. 1); and

a memory device operatively coupled to said processing unit (See, e.g. Appellant's specification at page 6, lines 3-10), wherein said memory device has stored therein a plurality of instructions which, when executed by said processing unit, causes said processing unit to:

(a) compare a first received personal identification number (PIN number) with a plurality of PIN numbers associated with an account (See, e.g. Appellant's specification at page 12, lines 9-15);

(b) determine that the first received PIN number corresponds to a first of the plurality of PIN numbers (See, e.g. Appellant's specification at page 12, lines 9-15);

(c) permit reduction of funds from the account based upon the correspondence of the first received PIN number with the first of the plurality of PIN numbers (See, e.g. Appellant's specification at page 12, lines 9-15);

(d) compare a second received PIN number with the plurality of PIN numbers associated with the account (See, e.g. Appellant's specification at page 13, lines 13-18);

(e) determine that the second received PIN number corresponds to a second of the plurality of PIN numbers (See, e.g. Appellant's specification at page 13, lines 13-18);

(f) permit posting of funds to the account based upon the correspondence of the second received PIN number with the second of the plurality of PIN numbers (See, e.g. Appellant's specification at page 13, lines 13-18); and

(g) not permit removal of funds from the account based upon the correspondence of the second received PIN number with the second of the plurality of PIN numbers (See, e.g. Appellant's specification at page 13, lines 13-18).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claim 38 was not considered by the Examiner as allegedly being drawn to an invention distinct from the invention of claims 19-37.

Claims 19 and 29 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,897,625 to Gustin et al. (hereinafter “Gustin”) in view of U.S. Patent No. 5,953,710 to Fleming (hereinafter “Fleming”).¹

Claims 20-28 and 30-37 stand rejected under 35 U.S.C. §103(a) as obvious over Gustin and Fleming in further view of U.S. Patent No. 6,193,155 to Walker et al. (hereinafter “Walker”).

(7) ARGUMENT

The Restriction Requirement Was Improper

The Examiner required a restriction of the claims and withdrew claim 38 from examination citing to 37 CFR 1.142(b) for authority. (Office Action at pages 2-3). The Examiner’s restriction requirement is contrary to 35 U.S.C. 121 and the restriction requirement should be reversed.²

¹ The Office Action identifies Gustin as “US 6,897,625.” U.S. Patent No. 6,897,625 issued to Brixius et al. is entitled “Load-dependent asynchronous drive for a transport path.” While neither patent supports the positions taken by the Examiner, Gustin appears to be closer than Brixius to the present invention. Accordingly, the Appellant discusses Gustin herein.

² The Examiner equated claims 19 and 29 in discussing the restriction with respect to claim 38. Accordingly, while the arguments set forth herein are equally salient for a discussion of claim 38 with respect to claim 29, for sake of brevity, the Appellant will primarily address claim 19 and claim 38 in this discussion.

1. The Statutory Requirement for Restriction

The statutory basis for the restriction practice of the U.S. Patent and Trademark Office (the PTO) is set forth in 35 U.S.C. 121. Specifically, 35 U.S.C. 121 states that “[i]f two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions.” Thus, while it is not *mandatory* for the PTO to restrict applications to a single invention, the statute specifically authorizes such restriction at the discretion of the Director. Before any such discretion is exercised, however, the statute requires that there be “two or more independent and distinct inventions”.

Therefore, the existence of two or more distinct inventions in the claims is a statutory prerequisite for any restriction requirement. “[W]hether the requirements of section 121 have been satisfied is a question of law” that is reviewed *de novo* based upon a review of the relevant materials. *Bristol-Myers Squibb Co. v. Pharmachemie*, 361 F.3d 1343, Fn 1, 70 USPQ2d 1097, Fn 1 (Fed. Cir. 2004). Accordingly, while the decision to exercise statutorily authorized discretion is a matter appropriate for a petition to the Director of the PTO, determining whether or not two claims meet the statutory prerequisite is a question of law which is properly appealed to the Board.

2. The Examiner Has Not Identified a Valid Statutory Basis for Restriction

As an initial matter, the Examiner has failed to identify any legally cognizable basis which allows for a restriction requirement with respect to claim 38. Specifically, the basis for the Examiner’s restriction and the withdrawal of claim 38 from consideration is that “the inventions are different requiring a different search.” (Office

Action at page 2). Thus, the Examiner merely alleges that claim 38 is “different” from the invention recited in claims 19-37.

After concluding that the limitations of claim 38 are different from the limitations of claims 19 and 29, the Examiner then declares that she is withdrawing claim 38 from consideration based upon 37 CFR 1.142(b). 37 CFR 1.142(b), however, fails to provide a basis for the Examiner’s action. Rather, 37 CFR 1.142(b) states that “[i]f two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted.” Thus, the regulation requires restriction if there are two inventions that are “independent and distinct” from each other, not merely two *different* claims.

Therefore, because the Examiner has failed to identify any legally cognizable basis for issuing a restriction requirement, the Board is respectfully requested to reverse the Examiner’s restriction requirement.

3. Claims 19 and 38 are Not Independent and Distinct Inventions

Furthermore, the Examiner’s error is not merely one of form. The alleged “difference” which the Examiner identified as empowering the issuance of a restriction requirement is that “[c]laim 38 has a plurality of first and second PIN numbers to perform a correspondence of the first received PIN number and the second PIN number with a plurality of PIN numbers” while “[c]laims 19 and 29 do not perform a comparison of a first and second plurality of PIN numbers.” (Office Action at page 2). When the actual claims are considered, the claims are not directed to independent and distinct inventions.

Specifically, the system of claim 38 recites a memory device with instructions to “compare a first received personal identification number (PIN number) with a plurality of PIN numbers associated with an account” and “compare a second received PIN number with the plurality of PIN numbers associated with the account.” Based upon the different PIN numbers, different actions are authorized. Claim 38 is thus directed to a method wherein more than one PIN number can access a single account, but different actions are authorized based upon the particular PIN number used to access the account.

The method of claim 19 recites “operating said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal” and “operating said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit. Claim 19 is thus directed to a method wherein more than one PIN number can access a single account, but different actions are authorized based upon the particular PIN number used to access the account.

Therefore, claims 19 and 38 are different, but they recite the same essential characteristics of a system and method wherein more than one PIN number can access a single account, but different actions are authorized based upon the particular PIN number used to access the account. MPEP 806.03 states

Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are *not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Accordingly, the Examiner's restriction requirement and withdrawal of claim 38 was improper and the Board is respectfully requested to reverse the restriction requirement.

4. Conclusion

The governing statute only empowers the PTO with the discretion to restrict examination of claims which are drawn to two independent and distinct inventions. The Examiner has not even alleged that claim 38 is independent and distinct from claims 19-37. Moreover, claims 19 and 38 are not drawn to two independent and distinct inventions. Therefore, it was improper for the Examiner to require restriction and the Board is respectfully requested to reverse the restriction requirement

Claims 19, 22-29 and 32-37 Are Not Obvious

Discussion re: Patentability of Claim 19

1. Claim 19

Claim 19 recites the following:

- A method of operating an electronic banking terminal, comprising the steps of:
- (a) operating said terminal to permit deposit of funds into a banking account in response to entry of a first personal identification number (PIN number) into said terminal;
 - (b) operating said terminal to permit deposit of funds into said banking account in response to entry of a second PIN number into said terminal, said first PIN number being different than said second PIN number;
 - (c) operating said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal; and
 - (d) operating said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit.

Steps (a) and (c) of claim 19 recite that use of a first PIN number allows funds to be deposited into the account and allows funds to be withdrawn from that same account. Steps (b) and (d) of claim 19 recite that use of a second PIN number allows funds to be deposited into that same account and allows only a lesser amount of funds to be

withdrawn from that same account. Therefore, claim 19 recites that a single account is accessed by two different PIN numbers, with different rules applying to how the account may be used depending upon the PIN number used to access the account.

2. There is No Motivation for the Proposed Combination

The Examiner has alleged that motivation for the proposed combination may be found in U.S. Patent No. 5,649,118 to Carlisle et al. (hereinafter “Carlisle”). There is no motivation for the proposed combination in Carlisle.

Specifically, the Examiner has proposed that the motivation for the combination would be to “allow Gustin’s identification to enter information in the form of an ID and a RND1 when a prompt for input is given to provide a PIN string and PIN is confirmed.” (Office Action at page 5). The Examiner purportedly finds this motivation at column 10 lines 32-50 of Carlisle. (Office Action at page 9). The cited passage in Carlisle, however, merely describes a log-in process that is used in the method and system taught therein. In that system, a smart card is inserted by the possessor of the card. (Carlisle at column 9, lines 32-33). The possessor of the card is then prompted to input a PIN. (Carlisle at column 9, lines 49-50 and step 102 of FIG. 3). After the PIN is input by the possessor of the smart card, the smart card of Carlisle checks the input PIN against the PIN stored on the smart card to ensure that the possessor of the card is the authorized user. (Carlisle at column 9, lines 50-55).

Thereafter, the smart card communicates its identification number (ID) and a random string of numbers (RND1) to the owner system of Carlisle. (Carlisle at column 9, lines 57-60 and step 104 of FIG. 3). The owner system verifies that the smart card

being used is in fact a smart card issued by the owner system by communicating the smart card's ID and a different random string of numbers (RND2) to the smart card. (Carlisle at column 10, lines 12-15 and step 105 of FIG. 3). The smart card returns the RND2 to the owner system encrypted with the smart card's Root password (K), which is known to the owner system. (Carlisle at column 10, lines 14-19 and step 106 of FIG. 3).

Accordingly, Carlisle discloses the use of a *single* PIN that is used during a *single* access of an account. The PIN is only input once, and is only transmitted to the smart card for comparison of the input PIN with the PIN stored within the smart card. After the smart card verifies the PIN, the smart card initiates communication with the owner system. Thus, Carlisle does provide additional layers of security. The provision of additional *layers* of security to limit access to an account to a single user, however, is not the same as providing for tiered access to a single account by more than one user.

Because Carlisle teaches the use of a single PIN to access a single smart card, there is no logical connection between the teaching of Carlisle and a motivation to modify Gustin to allow a number of different PINs to access an account. Therefore, there is no motivation for the proposed combination. Consequently, the Examiner has failed to establish a *prima facie* case of obviousness and the Board of Appeals is respectfully requested to reverse this rejection of claim 19.

3. Fleming Does Not Teach Steps (b) and (d) of Appellant's Claim 19

Moreover, the Examiner has acknowledged that Gustin fails to teach steps (b) and (d) of claim 19. (Office Action at page 4). The Examiner has alleged, however, that Fleming teaches step (b) at column 6, lines 20-47, and further that Fleming teaches step

(d) at column 6, lines 48-67. Fleming does not teach, suggest or disclose the use of two different PIN numbers for a single account.

Specifically, Fleming discloses a system wherein a child is given an account *separate* from the parents account. (See, e.g. Fleming at FIG. 2 showing the parent's account record 24 as separate from the child's account record 26). The accounts are "linked" in that the parent account identifies the child account and *vice versa*; however, the two accounts are separate. (Fleming at Abstract, FIG. 2). For example, to access the respective accounts, PIN numbers may be used. More specifically, the parent's account 24 *requires* the use of a PIN number (Fleming at column 6, lines 33-36) while a PIN number for use with the child's account is "optionally" provided. (Fleming at column 6, lines 37-38). Thus, while the owner of the parent account exerts some control over the child's account, the child account of Fleming is a second account with its own associated PIN number. Therefore, Fleming discloses two different PIN numbers, but the PIN numbers are used to access two *different* accounts. The use of two *different* PIN numbers to access two *different* accounts is not the same as the use of two *different* PIN numbers to access the *same* account.

Therefore, because the Examiner has not identified two *different* PIN numbers that access the *same* account in the system of Fleming, the proposed combination does not arrive at the invention recited in claim 19. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness and the Board of Appeals is respectfully requested to reverse this rejection of claim 19.

4. Conclusion

Therefore, for any of the reasons set forth above, a *prima facie* case of obviousness has not been established with respect to the invention of claim 19 and the Board of Appeals is respectfully requested to reverse the rejection of claim 19.

Discussion re: Patentability of Claims 22-28

Claims 22-28 depend, either directly or by way of one or more intermediate claims, from claim 19 and incorporate all the limitations of claim 19. Accordingly, claims 22-28 are patentable over the prior art for at least the same reasons as those set forth above in connection with claim 19.

Discussion re: Patentability of Claim 29

Claim 29 recites the following:

An electronic terminal, comprising:
an input device for receiving input from a user;
a processing unit electrically coupled to said input device; and
a memory device electrically coupled to said processing unit, wherein said memory device has stored therein a plurality of instructions which, when executed by said processing unit, causes said processing unit to:

- (a) operate said terminal to permit deposit of funds into a banking account in response to entry of a first personal identification number (PIN number) into said terminal;
- (b) operate said terminal to permit deposit of funds into said banking account in response to entry of a second PIN number into said terminal, said first PIN number being different than said second PIN number;
- (c) operate said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal; and
- (d) operate said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit.

Accordingly, claim 29 recites a terminal with a processing unit which executes commands stored in a memory device so as to permit user withdrawal of funds up to a first dollar amount limit from the banking account in response to entry of a first PIN number into the terminal and to permit user withdrawal of funds up to a second dollar

amount limit from the banking account in response to entry of a second PIN number into the terminal. Therefore, a single account is accessed using two different PIN numbers and different privileges are granted based upon the particular PIN number used to access the account. For the purposes of this appeal, these are the same limitations discussed above with respect to claim 19.

The Examiner rejected claim 29 based upon the same combination of Gustin and Fleming with reliance upon Carlisle for the proposed motivation that was discussed above with respect to claim 19. (Office Action at pages 3-4). Accordingly, claim 29 is patentable over the prior art for at least the same reasons as those set forth above with respect to claim 19. Therefore, the Board of Appeals is respectfully requested to reverse this rejection of claim 29.

Discussion re: Patentability of Claims 32-37

Claims 32-37 depend, either directly or by way of one or more intermediate claims, from claim 29 and incorporate all the limitations of claim 29. Accordingly, claims 32-37 are patentable over the prior art for at least the same reasons as those set forth above in connection with claim 29.

Claims 20 and 30 Are Not Obvious

Discussion re: Patentability of Claim 20

1. Claim 20

Claim 20 recites the following:

- The method of claim 19, wherein said step (a) includes the steps of:
- (e) reading a code stored on a gift card to determine a gift dollar amount associated with said gift card, and
 - (f) depositing said gift dollar amount into said banking account in response to said reading step.

Accordingly, claim 20 recites a method wherein a dollar amount associated with a gift card is deposited into the account that is accessed by two PIN numbers.

2. The Discussion of Claim 19 Applies

The Examiner rejected claim 20 based primarily upon the same reasoning set forth above with respect to the rejection of claim 19 with further reference to U.S. Patent No. 6,193,155 to Walker et al. (hereinafter “Walker”) for the elements added by claim 19. (Office Action at page 5). Accordingly, even if Gustin is modified as proposed by the Examiner, such modification does not correct the deficiencies of Gustin and Fleming that were discussed above.

Therefore, even assuming that Gustin is modified with the teaching of Walker, a *prima facie* case of obviousness under 35 U.S.C. § 103 has not been established with regard to the invention of claim 20 and the Board of Appeals is respectfully requested to reverse this rejection of claim 20.

3. There is No Motivation for the Proposed Modification

The Examiner alleges that there is motivation for the modification of Gustin and Fleming with Walker since the “modification would allow Gustin to a gift certificate (gift card) for payment of an identified value which is issued by an account holder that has a certificate identifier corresponding to an account identifier.” (Office Action at page 5). To the extent the Examiner can be understood, the Examiner has failed to provide a legally cognizable motivation.

Specifically, MPEP 2144 states:

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law.

The Examiner has made no reference to any prior art, scientific principles or legal precedent as the basis for the proposed modification. Accordingly, the modification proposed by the Examiner must be “reasoned from knowledge generally available to one of ordinary skill in the art.” Therefore, the Examiner is apparently taking notice of the knowledge available to one of ordinary skill in the art for the proposed motivation. As set forth in MPEP 2144.03, when such notice is taken, “the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge.”

The description of the proposed motivation, however, is unintelligible. The motivation simply cannot be deciphered from the language used in the Office Action. Because the proposed motivation is not set forth in a manner which allows for the Examiner to be understood, the basis of the Examiner’s reasoning cannot be “set forth explicitly” as required by the MPEP.

Accordingly, the Examiner has not alleged that the prior art contains any teaching or suggestion to one skilled in the art to combine Gustin and Fleming with Walker, and the Examiner has failed to explicitly set forth a line of reasoning that arrives at a valid motivation. Thus, a *prima facie* case of obviousness under 35 U.S.C. § 103 has not been established with regard to the invention of claim 20. Accordingly, the Board of Appeals is respectfully requested to reverse this rejection of claim 20.

4. Walker Has Been Mischaracterized

Furthermore, even if Walker is combined with Gustin and Fleming and the deficiencies of Gustin and Fleming with respect to claim 19 were overcome, Walker fails to disclose the limitations added by claim 20.

Specifically, claim 20 recites a method wherein a dollar amount associated with a gift card is deposited into the account that is accessed by two PIN numbers. In contrast, Walker simply describes a gift certificate which “identifies the financial account from which funds will be drawn to support the gift certificate transaction.” (Walker at column 3, lines 40-43). Walker thus discloses a gift certificate which can be used at a retail location. Specifically, the bearer of the gift certificate “may then present the gift certificate to pay for goods and/or services at participating merchants such as merchant 108.” (Walker at column 5, lines 29-31). There is, however, no disclosure whatsoever of the gift certificate being “deposited” much less deposited into an account which is accessible via a PIN number. Using a gift certificate to buy goods and/or services is not the same as using a gift certificate to deposit money into an account accessible by a PIN number.

Therefore, because the Examiner has mischaracterized Walker, even if Gustin and Fleming are modified with the actual teaching of Walker, the combination fails to arrive at the invention of claim 20. Accordingly, the Board of Appeals is respectfully requested to reverse this rejection of claim 20.

5. Conclusion

Therefore, for any of the reasons set forth above, a *prima facie* case of obviousness has not been established with respect to the invention of claim 20 and the Board of Appeals is respectfully requested to reverse the rejection of claim 20.

Discussion re: Patentability of Claim 30

Claim 30 recites the following:

The electronic terminal of claim 29, further comprising a code reader configured to read a code stored on a gift card, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

(e) read said code stored on said gift card to determine a gift dollar amount associated with said gift card, and

(f) deposit said gift dollar amount into said banking account in response to said reading step.

Accordingly, claim 30 recites a terminal which executes commands stored in a memory device so as to read a gift certificate and deposit the gift dollar amount into the bank account. For the purposes of this appeal, these are the same limitations discussed above with respect to claim 20.

The Examiner rejected claim 30 based upon the same combination of Gustin, Fleming and Walker that was discussed above with respect to claim 20. (Office Action at page 5). Accordingly, claim 30 is patentable over the prior art for at least the same reasons as those set forth above with respect to claim 20. Therefore, the Board of Appeals is respectfully requested to reverse this rejection of claim 30.

Claims 21 and 31 Are Not Obvious

Discussion re: Patentability of Claim 21

1. Claim 21

Claim 21 recites the following:

The method of claim 19, further comprising the steps of:

(e) operating said terminal to permit deposit of funds into said banking account in response to entry of a third PIN number into said terminal, said third PIN number being different than both said first PIN number and said second PIN number; and

(f) operating said terminal to prohibit withdrawal of funds from said banking account in response to entry of said third PIN number into said terminal.

Accordingly, claim 21 recites a method wherein a third PIN number, which is associated with the account that is accessed by two PIN numbers, permits deposits to the account but not withdrawals.

2. The Discussion of Claim 19 Applies

The Examiner rejected claim 21 based primarily upon the same reasoning set forth above with respect to the rejection of claim 19 with further reference to Gustin for the elements added by claim 21 (Office Action at page 6). Accordingly, even if Gustin discloses the additional limitations of claim 21, such disclosure does not correct the deficiencies of Gustin and Fleming that were discussed above.

Therefore, even assuming that Gustin discloses the limitations of claim 21, a *prima facie* case of obviousness under 35 U.S.C. § 103 has not been established with regard to the invention of claim 21 and the Board of Appeals is respectfully requested to reverse this rejection of claim 21.

3. Gustin Has Been Mischaracterized

Furthermore, the Examiner has cited to Gustin at column 9, lines 51-55, column 11, line 66 through column 12, line 31, FIG. 13 at steps 380 and 382, FIG. 13A and FIG. 13B for the use of a third PIN number to access an account and to Gustin at column 10,

lines 36-42 for the proposition that Gustin discloses a third PIN number which permits deposits to the account but not withdrawals. The Examiner has mischaracterized Gustin.

Specifically, at column 9, lines 51-55, Gustin discloses entry of a PIN number or password. At column 11, line 66 through column 12, line 31, and FIG. 13 at steps 380 and 382, Gustin discloses accessing a deposit menu after logging in. Finally, at FIG. 13A and FIG. 13B Gustin discloses screens which identify the nature of the deposit (check, cash, money order). Therefore, Gustin discloses a *single* PIN number used to access the account. An account accessible with a *single* PIN number is not the same as an account accessible with *three* PIN numbers.

Moreover, at column 10, lines 36-42, Gustin states:

In a step 340 the withdraw screen is engaged and in a step 342 the user is prompted by the screen to insert the card and a verify screen is displayed. If the card is verified control is transferred to a step 344 allowing the user to choose from a present withdrawal amount.

Thus, Gustin actually teaches *allowing* a withdrawal. Allowing a withdrawal is the opposite of prohibiting a withdrawal.

Therefore, Gustin fails to teach, suggest or disclose the limitations added by claim 21. Accordingly, the Board of Appeals is respectfully requested to reverse this rejection of claim 21.

4. Conclusion

Therefore, for any of the reasons set forth above, a *prima facie* case of obviousness has not been established with respect to the invention of claim 21 and the Board of Appeals is respectfully requested to reverse the rejection of claim 21.

Discussion re: Patentability of Claim 31

Claim 31 recites the following:

The electronic terminal of claim 29, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

(e) operate said terminal to permit deposit of funds into said banking account in response to entry of a third PIN number into said terminal, said third PIN number being different than both said first PIN number and said second PIN number; and

(f) operate said terminal to prohibit withdrawal of funds from said banking account in response to entry of said third PIN number into said terminal.

Accordingly, claim 31 recites a terminal which executes commands stored in a memory device so as to permit deposits to the account but not withdrawals in response to a third PIN number associated with the account. For the purposes of this appeal, these are the same limitations discussed above with respect to claim 21.

The Examiner rejected claim 31 based upon the same combination of Gustin and Fleming that was discussed above with respect to claim 21. (Office Action at page 5). Accordingly, claim 31 is patentable over the prior art for at least the same reasons as those set forth above with respect to claim 21. Therefore, the Board of Appeals is respectfully requested to reverse this rejection of claim 31.

(8) CONCLUSION

Claims 19 and 29 are not obvious over Gustin in view of Fleming and claims 20-28 and 30-37 are not obvious over Gustin and Fleming in further view of Walker. Additionally, claim 38 was improperly restricted and withdrawn by the Examiner. Accordingly, the Board of Appeals is respectfully requested to reverse the rejections of claims 19-37 and the restriction requirement and withdrawal of claim 38.

Respectfully submitted,

MAGINOT, MOORE & BECK

A handwritten signature in black ink, appearing to read "James D. Wood", written over a horizontal line.

James D. Wood
Attorney for Appellant
Registration No. 43,285

December 20, 2006
Maginot, Moore & Beck
Chase Tower
111 Monument Circle, Suite 3250
Indianapolis, Indiana 46204-5115
Telephone (317) 638-2922

(9) CLAIMS APPENDIX

Claim 19. A method of operating an electronic banking terminal, comprising the steps of:

(a) operating said terminal to permit deposit of funds into a banking account in response to entry of a first personal identification number (PIN number) into said terminal;

(b) operating said terminal to permit deposit of funds into said banking account in response to entry of a second PIN number into said terminal, said first PIN number being different than said second PIN number;

(c) operating said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal; and

(d) operating said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit.

Claim 20. The method of claim 19, wherein said step (a) includes the steps of:

(e) reading a code stored on a gift card to determine a gift dollar amount associated with said gift card, and

(f) depositing said gift dollar amount into said banking account in response to said reading step.

Claim 21. The method of claim 19, further comprising the steps of:

(e) operating said terminal to permit deposit of funds into said banking account in response to entry of a third PIN number into said terminal, said third PIN number being different than both said first PIN number and said second PIN number; and

(f) operating said terminal to prohibit withdrawal of funds from said banking account in response to entry of said third PIN number into said terminal.

Claim 22. The method of claim 19, wherein:

said banking account has an account number associated therewith,

said step (c) includes the step of operating said terminal to permit user withdrawal of funds up to said first dollar amount limit from said banking account in response to entry into said terminal of (i) said account number, and (ii) said first PIN number, and

said step (d) includes the step of operating said terminal to permit user withdrawal of funds up to said second dollar amount limit from said banking account in response to entry into said terminal of (i) said account number, and (ii) said second PIN number.

Claim 23. The method of claim 19, wherein:

said electronic banking terminal includes a point-of-sale retail terminal having a currency acceptor, and

said step (a) includes the step of operating said currency acceptor to accept a cash deposit into said terminal for said banking account.

Claim 24. The method of claim 23, further comprising the step of:

(e) operating said currency acceptor so as to permit cash to be accepted by said currency acceptor for payment of an item for purchase.

Claim 25. The method of claim 24, wherein:

said point-of-sale retail terminal further has a currency dispenser,

said step (c) includes the step of operating said currency dispenser to dispense currency up to said first dollar amount limit, and

said step (d) includes the step of operating said currency dispenser to dispense currency up to said second dollar amount limit.

Claim 26. The method of claim 25, further comprising the step of:

(f) operating said currency dispenser to provide change in response to cash being accepted by said currency acceptor for payment of said item for purchase.

Claim 27. The method of claim 24, wherein:

said point-of-sale retail terminal further has a touch screen monitor associated therewith,

said touch screen monitor is configured to permit entry into said terminal of either said first PIN number or said second PIN number.

Claim 28. The method of claim 27, further comprising the step of:

(g) operating said touch screen monitor to enter an item code associated with said item for purchase into said terminal.

Claim 29. An electronic terminal, comprising:

an input device for receiving input from a user;

a processing unit electrically coupled to said input device; and

a memory device electrically coupled to said processing unit, wherein said memory device has stored therein a plurality of instructions which, when executed by said processing unit, causes said processing unit to:

(a) operate said terminal to permit deposit of funds into a banking account in response to entry of a first personal identification number (PIN number) into said terminal;

(b) operate said terminal to permit deposit of funds into said banking account in response to entry of a second PIN number into said terminal, said first PIN number being different than said second PIN number;

(c) operate said terminal to permit user withdrawal of funds up to a first dollar amount limit from said banking account in response to entry of said first PIN number into said terminal; and

(d) operate said terminal to permit user withdrawal of funds up to a second dollar amount limit from said banking account in response to entry of said second PIN number into said terminal, wherein said first dollar amount limit is less than said second dollar amount limit.

Claim 30. The electronic terminal of claim 29, further comprising a code reader configured to read a code stored on a gift card, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

(e) read said code stored on said gift card to determine a gift dollar amount associated with said gift card, and

(f) deposit said gift dollar amount into said banking account in response to said reading step.

Claim 31. The electronic terminal of claim 29, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

(e) operate said terminal to permit deposit of funds into said banking account in response to entry of a third PIN number into said terminal, said third PIN number being different than both said first PIN number and said second PIN number; and

(f) operate said terminal to prohibit withdrawal of funds from said banking account in response to entry of said third PIN number into said terminal.

Claim 32. The electronic terminal of claim 29, wherein:

said banking account has an account number associated therewith, and

said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

operate said terminal to permit user withdrawal of funds up to said first dollar amount limit from said banking account in response to entry into said terminal of (i) said account number, and (ii) said first PIN number, and

operate said terminal to permit user withdrawal of funds up to said second dollar amount limit from said banking account in response to entry into said terminal of (i) said account number, and (ii) said second PIN number.

Claim 33. The electronic terminal of claim 29, further comprising (i) a scanner operable to permit entry of an item for purchase into said terminal, and (ii) a currency acceptor operable to receive currency into said terminal, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

operate said currency acceptor to accept a cash deposit into said terminal for said banking account, and

operate said currency acceptor so as to permit cash to be accepted by said currency acceptor for payment of an item for purchase.

Claim 34. The electronic terminal of claim 33, further comprising a currency dispenser for dispensing currency, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

operate said currency dispenser to dispense currency up to said first dollar amount limit, and

further operate said currency dispenser to dispense currency up to said second dollar amount limit.

Claim 35. The method of claim 34, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

operate said currency dispenser to provide change in response to cash being accepted by said currency acceptor for payment of said item for purchase.

Claim 36. The electronic terminal of claim 29, wherein:

said input device includes a touch screen monitor, and

said touch screen monitor is configured to permit entry into said terminal of either said first PIN number or said second PIN number.

Claim 37. The electronic terminal of claim 36, wherein said plurality of instructions, when executed by said processing unit, further causes said processing unit to:

(g) operate said touch screen monitor to enter an item code associated with said item for purchase into said terminal.

Claim 38. An automated teller machine system comprising:

a processing unit operatively coupled to said input device; and

a memory device operatively coupled to said processing unit, wherein said memory device has stored therein a plurality of instructions which, when executed by said processing unit, causes said processing unit to:

- (a) compare a first received personal identification number (PIN number) with a plurality of PIN numbers associated with an account;
- (b) determine that the first received PIN number corresponds to a first of the plurality of PIN numbers;
- (c) permit reduction of funds from the account based upon the correspondence of the first received PIN number with the first of the plurality of PIN numbers;
- (d) compare a second received PIN number with the plurality of PIN numbers associated with the account;
- (e) determine that the second received PIN number corresponds to a second of the plurality of PIN numbers;
- (f) permit posting of funds to the account based upon the correspondence of the second received PIN number with the second of the plurality of PIN numbers; and
- (g) not permit removal of funds from the account based upon the correspondence of the second received PIN number with the second of the plurality of PIN numbers.

(10) EVIDENCE APPENDIX

None.

(11) RELATED PROCEEDINGS APPENDIX

None.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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James D. Wood

Name of person mailing Document or Fee

Signature

December 20, 2006

Date of Signature

Re: Application of: Joanne S. Walter
Serial No. 09/629,735
Filed: July 31, 2000
For: Apparatus and Method for Maintaining a Children's
Bank Account
Group Art Unit: 3624
Examiner: Ella Colbert
MMB Docket No. 1001-0662
NCR Docket No. 8657

TRANSMITTAL LETTER

Please find for filing in connection with the above patent application the
following documents.

1. Amended Appeal Brief (36 pages); and
2. One (1) return post card.

Commissioner for Patents
December 20, 2006
Page 2 of 2

The \$500.00 fee required under 37 C.F.R. §41.20 (b)(2) has previously been submitted. However, please charge any fee deficiency or credit any overpayment to Deposit Account No. 13-0014.

Respectfully Submitted,

MAGINOT, MOORE & BECK

A handwritten signature in black ink, appearing to read "James D. Wood", written over a horizontal line.

James D. Wood
Registration No. 43,285
Chase Tower
111 Monument Circle, Suite 3250
Indianapolis, IN 46204-5109

December 20, 2006

Enclosures